

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROSE GIORDANO-FORKAN,

Plaintiff,

- against -

THE CITY OF NEW YORK; NEW YORK CITY
DEPARTMENT OF EDUCATION; DENNIS
WALCOTT, CHANCELLOR OF NEW YORK CITY
DEPARTMENT OF EDUCATION; JENNIFER JONES-
ROGERS, PRINCIPAL OF P.S. 29, IN HER OFFICIAL
AND INDIVIDUAL CAPACITY; CHRISTINE
MILTON, ASSISTANT PRINCIPAL OF P.S. 29, IN
HER OFFICIAL AND INDIVIDUAL CAPACITY,
SCOTT WOLFSON, ASSISTANT PRINCIPAL OF P.S.
29 IN HIS OFFICIAL AND INDIVIDUAL CAPACITY,

Defendants.
----- X

**NOTICE OF
DEFENDANTS' MOTION
TO DISMISS THE
COMPLAINT**

13 CV 06950 (GBD)

PLEASE TAKE NOTICE that upon the annexed Memorandum of Law in Support of the Defendants' Motion to Dismiss the Complaint, dated February 25, 2014, the Declaration of Stephen P. Pischl, dated February 25, 2014, and upon all the papers and proceedings previously had herein, defendants the City of New York, the Board of Education of the City School District of the City of New York ("BOE") (also know as and sued herein as the "Department of Education"), Jennifer Jones-Rogers, Christine Milton, Scott Wolfson will move this Court, at the United States Courthouse for the Southern District of New York, 40 Foley Square , New York, NY 10007, before the Honorable George B. Daniels, United States District Judge, for an order, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure ("FRCP"),

dismissing the Complaint in its entirety against the defendants on the grounds that:

- (1) Plaintiff's claims for First Amendment retaliation pursuant to § 1983, Title VII and the ADEA must be dismissed for her failure to state a plausible claim;
- (2) Plaintiff has failed to allege municipal liability for her claims against the BOE or its officers in their official capacities pursuant to § 1983;
- (3) Plaintiff's claims under Title VII and the ADEA must be dismissed as against all individually-named defendants; and
- (4) Plaintiff's causes of action alleging liability against the City of New York must be dismissed in their entirety as against an improper party.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Civil Rule 6.1(b) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, plaintiff's opposition papers, if any, shall be served within fourteen (14) days after the service of defendant's moving papers, and that reply papers, if any, shall be served by the undersigned within seven (7) days after service of the opposition papers.

PLEASE TAKE FURTHER NOTICE, that pursuant to Rule 12 of the FRCP, in the event that this motion is denied, in whole or in part, defendants respectfully request thirty (30) days from docketing of the order denying the motion in which to answer the complaint.

Dated: New York, New York
February 25, 2014

ZACHARY W. CARTER
Corporation Counsel
of the City of New York
Attorney for Defendants
100 Church Street, Room 2-142
New York, New York 10007-2601
(212) 356-2429
spischl@law.nyc.gov

By:



Stephen P. Pischl
Assistant Corporation Counsel

To: **GLASS KRAKOWER LLP**
Attorney for Plaintiff
Attn: Bryan D. Glass, Esq.
20 Broadway Ste 1
Valhalla, New York 10595
(914) 836-1386

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- against -

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PRINCIPAL OF P.S. 29, IN HER OFFICIAL AND
INDIVIDUAL CAPACITY; CHRISTINE MILTON,
ASSISTANT PRINCIPAL OF P.S. 29, IN HER OFFICIAL
AND INDIVIDUAL CAPACITY, SCOTT WOLFSON,
ASSISTANT PRINCIPAL OF P.S. 29 IN HIS OFFICIAL
AND INDIVIDUAL CAPACITY,

Defendants.

**NOTICE OF DEFENDANTS' MOTION TO DISMISS,
AND DECLARATION IN SUPPORT**

ZACHARY W. CARTER

Corporation Counsel of the City of New York
Attorney for Defendants
100 Church Street, Room 2-142
New York, New York 10007-2601

Of Counsel: Stephen P. Pischl
Telephone No.: (212) 356-2429

Law Dept. No.: 2013-049921

Due and timely service is hereby admitted.

New York, N.Y., 201_

..... Esq.

Attorney for